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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,773	12/26/2001	James H. Kerr SR.	P1499USA	5870
24998	7590	11/17/2008		
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER PARDO, THUY N	
			ART UNIT 2168	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/025,773	<b>Applicant(s)</b> KERR, JAMES H.	
	<b>Examiner</b> Thuy N. Pardo	<b>Art Unit</b> 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-12 and 14-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-12 and 14-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. Applicant's Amendment filed on October 10, 2008 in response to Examiner's Office Action has been reviewed. Claims 1, 3, 5, 7-12 and 14-22 are pending in the application. Claims 2, 4, 6 and 13 are canceled, and claims 1, 3, 7-9, 14-16, 19-21 are amended. This Office Action is made Final.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5, 7-12 and 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pike US Patent No. 6,459,371 in view of Bolavage et al. (hereinafter "Bolavage") US Patent Application No. 2002/0084889, in further view of Branscomb et al. (Hereinafter "Branscomb") US Patent No. 7,240,364.

As to claim 1, Pike teaches a tracking device system consisting of [see the title and abstract]:

a physical asset [locating device, see ab];

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a transmitter [transceiver, ab; col. 3, lines 10-12], attached to the physical asset for transmitting a first data signal [transmit an alarm signal;

a communication means [communication device 507 of fig. 5; ab; transmitter, col. 3, lines 19-20] for receiving the first data signal [receive a signal containing position locating information from the transmitter, col. 3, lines 19-20] and transmitting a second data signal [transmitting an activation signal to the locating device, col. 3, lines 30-38].

However, Pike does not explicitly teach tracking location of item via World Wide Web connection and for housing a software program for enabling a user to track the physical asset although it has the same functionality of tracking reporting and recording device for use with a portable two-way radio transceiver, for enabling the radio transceiver to transmit a locating signal containing position locating information [see the abstract of Pike]. Bolavage teaches tracking location of the item via World Wide Web connection and for housing a software program for enabling a user to track the physical asset [0016-0020; 0049-0051; fig. 1].

Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to add the feature of Bolavage to the system of Pike an essential means to tracking location of items through world wide packet data communication services .

However, neither Pike nor Bolavage teach displaying a status symbol corresponding to the location of the physical asset whereby if the status symbol is a first color the physical asset is not detected, if the status symbol is a second color the physical asset is detected but not detected in its proper location, and if the status symbol is a third color the physical asset is detected in its proper location. Branscomb teaches displaying a status symbol corresponding to the location of the physical asset whereby if the status symbol is a first color the physical asset is not detected, if

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the status symbol is a second color the physical asset is detected but not detected in its proper location, and if the status symbol is a third color the physical asset is detected in its proper location [displays the status of any faults. Each FCAP button may be colored according to a hierarchical color code where, for example, green means normal operation, red indicates a serious error and yellow indicates a warning status, col. 37, lines 44 to col. 38, lines 21].

Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to add the feature of Branscomb to the Pike-Bolavage's systems an essential means to detect whether the physical device is in its proper location based on the status symbols.

As to claim 3, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Pike further teaches outputting a status symbol representing the stored status signal [locating signal containing the position locating information stored in said memory [ab; col. 10, lines 58-65], and Branscomb further teaches monitoring the status of output from the timing module and providing a status signal to the hardware control logic [col. 136, lines 14 to col. 137, lines 9].

As to claim 5, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Pike further teaches manipulating the stored status signal by using the personal computer to generate, save and print reports [claim 1, 17; the resulting data transferred to a central computer, col. 6, lines 29-30].

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As to claims 7-9, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Branscomb teaches displaying a status symbol corresponding to the location of the physical asset whereby if the status symbol is a first color the physical asset is not detected, if the status symbol is a second color the physical asset is detected but not detected in its proper location, and if the status symbol is a third color the physical asset is detected in its proper location [displays the status of any faults. Each FCAP button may be colored according to a hierarchical color code where, for example, green means normal operation, red indicates a serious error and yellow indicates a warning status, col. 37, lines 44 to col. 38, lines 21].

As to claim 19, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches a computer network [see the abstract and fig. 1]; at least one server in communication with the computer network [ab; fig. 1]; a storage device for storing information [col. 4, lines 23-25]; and tracking location of the item via World Wide Web connection and for housing a software program for enabling a user to track the physical asset [0016-0020; 0049-0051; fig. 1].

As to claims 3, 20 and 21, all limitations of these claims have been addressed in the analysis of claims 1 and 19 above, and these claims are rejected on that basis.

As to claim 10, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches the communication means comprises a personal computer [18 of fig. 1].

As to claim 11, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches that receiving means comprises a personal computer [18 of fig. 1].

As to claim 12, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches the receiving means generates, saves and prints reports based on the second status signal [col. 9, lines 32-46].

As to claims 13-16, all limitations of these claims have been addressed in the analysis above, and these claims are rejected on that basis.

As to claim 17, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches a database for storing information about the first data signal [ab; 0031-0032]

As to claim 18, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches that the user having been granted exclusive access rights to the database and the user only gaining access by using a password or personal identification number [0032; 0050].

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As to claim 22, Pike, Bolavage and Branscomb teach the invention substantially as claimed. Bolavage further teaches that the communication medium is the Internet [see fig. 1].

### ***Response to Arguments***

3. Applicant's arguments filed October 10, 2008 have been fully considered but they are not persuasive.

Applicant argues that claims 1, 3 and 5-22 stand rejected under § 102 as being anticipated by Pike (U.S. Patent No. 6,459,371) in view of Bolavage (U.S. Publication No. 2002/0084889).

It should be noted that claims 1, 3 and 5-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pike US Patent No. 6,459,371 in view of Bolavage et al. (hereinafter "Bolavage") US Patent Application No. 2002/0084889 in the Office Action filed July 01, 2008.

Applicant argues that neither Pike nor Bolavage teaches outputting a red status symbol if the physical asset is not detected, the outing step comprises outputting green status symbol if the physical asset is detected in its proper location, and the outputting step comprises outputting a yellow status symbol if the physical asset is detected, but not detected in its proper location.

Examiner respectfully disagrees. Examiner states in the previous action neither Pike nor Bolavage teach outputting a red status symbol if the physical asset is not in a proper location, a green status symbol if the physical asset is in a proper location, and yellow status symbol if the physical asset is detected in a location, but the location is not a proper location. However, these features are only a matter of a design choice and are well-applied in many exclusive operations. Branscomb teaches displaying a status symbol corresponding to the location of the physical asset whereby if the status symbol is a first color the physical asset is not detected, if the status symbol



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is a second color the physical asset is detected but not detected in its proper location, and if the status symbol is a third color the physical asset is detected in its proper location [displays the status of any faults. Each FCAP button may be colored according to a hierarchical color code where, for example, green means normal operation, red indicates a serious error and yellow indicates a warning status, col. 37, lines 44 to col. 38, lines 21].

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Pike teaches locating device with a portable two-way radio transceiver for enabling the radio transceiver to transmit a locating signal containing position locating information. Bolavage enhances the system of Pike by locating assets over the Internet with each asset having an associated tag [see the abstract and 0017-0018]. Branscomb enhances the Pike-Bolavage's system Branscomb to the Pike-Bolavage's systems an essential means to detect whether the physical device is in its proper location based on the status symbols (i.e., Red, Yellow, or Green).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy N. Pardo whose telephone number is 571-272-4082. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thuy N. Pardo/

Primary Examiner, Art Unit 2168